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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/765,563

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Benjamin A. Street

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8129

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EXAMINER

MCGOWAN, JAMIE LOUISE

ART UNIT

PAPER NUMBER

3671

MAIL DATE

DELIVERY MODE

05/07/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/765,563	<b>Applicant(s)</b> STREET, BENJAMIN A.	
	<b>Examiner</b> JAMIE L. MCGOWAN	<b>Art Unit</b> 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-12, 20-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12, 20-23, 29 and 30 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9, 11 and 24-28 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This action was attempted to be mailed on 7/16/2007. Applicant submitted a request for a change of address on 8/14/2006. The change of address was improperly entered into the system. This action was sent to Rand Tower Suite 1960, 821 Marquette Avenue, Minneapolis, MN 55402. It should have been sent to Rand Tower Suite 1960, 527 Marquette Avenue, Minneapolis, MN 55402. Applicant has since filed a second change of address to correct the improper entry. As such, the time period for response has been reset.

#### ***Drawings***

1. The drawings submitted on 2/28/2006 are objected to as containing new matter and therefore will not be entered. The placement and means of attachment of the blower, box scraper and rake were not sufficiently described in the specification. Therefore, the specification should be amended back to the way it was originally to remove references to drawings 7-9 which will not be entered.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:  
The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11, 24-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The second quick attachment comprising male and female

couplers provided on a rear of the frame and being of like kind and size was not properly described in the specification or shown in the drawings. Similarly, the implements mounted to the female coupler of the first quick attachment and comprising a blower, rake and box scraper are not properly described in the specification or shown in the drawings.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 7 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (2,228,490) in view of Todd (2,678,596).

Smith discloses a grooming vehicle including a frame 10, a support on which the steerable front wheel is rotatably journaled, a ground grooming implement 32, a vertically movable linkage (29,25) and a powered (by the operator) actuator (37, 36, 33) connected to the movable linkage to raise and lower the linkage.

Concerning claims 2 & 3, the linkage of Smith including bars 29 & 27 is considered a four bar linkage with the pair of bars being parallel.

Concerning claim 4, since the bars are shown to be bolted on their ends, the connections are considered to be quick attachment connections.

Concerning claim 7, implement 32 is considered a bulldozer blade.

While Smith discloses the invention as described above, it fails to disclose that the actuator is mounted to the wheel support. Like Smith, Todd discloses an implement

mountable on a tractor. Unlike Smith, Todd further discloses a powered actuator mounted between the implement and the wheel support. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the powered actuator of Todd in the device of Smith to make the raising and lowering of the implement easier for the operator.

Regarding claim 28, the combination of Smith and Todd discloses that the actuator is a cylinder (inherently includes a housing and a rod).

Regarding claim 5, Smith discloses a grooming vehicle as described previously, but lacks the quick attachment being A-shaped.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the quick attachment A-shaped since it has been held that there is no invention in merely changing the shape or form of an article without changing its function except in a design patent. Eskimo Pie Corp. v. Levous et al., 3 USPQ 23.

5. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (2,228,490) in view of Todd (2,678,596) as applied to claim 1 above and further in view of Ciula (5,088,215).

Smith discloses a grooming vehicle as described previously, but lacks the blade being pivotal against a spring bias.

Ciula teaches that it is known in the art to allow a blade to pivot against a spring bias (figure 6). This allows the blade to pivot if it engages an obstacle instead of transferring the impact force to the implement frame or vehicle.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Smith, by providing structure similar to Ciula that would allow the blade to pivot against a spring bias if it engages an obstacle, so that an impact force would not be transferred to the implement frame or vehicle.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (2,228,490) in view of Todd (2,678,596) as applied to claim 1 above and further in view of Schmid et al. (4,825,570).

Smith discloses a grooming vehicle as described previously, but lacks the implement being a blower. Smith discloses the implement as a plow blade.

Schmid et al. teaches that a blower is an equivalent structure known in the art. Therefore, because two plow means were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute a blower for a plow blade.

#### ***Allowable Subject Matter***

7. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 12, 20-23, 29 and 30 are allowed.

#### ***Response to Arguments***

9. Applicant's arguments, see pages 11 and 12, filed 04/19/2007, with respect to the rejection(s) of claim(s) 1 under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Smith in view of Todd. While Smith does show an actuator, it does not show the actuator attached to the front wheel mount. Todd shows that a hydraulic actuator could be used and attached directly to a wheel mount.

10. Applicant's arguments filed 04/19/2007 regarding the 112 rejection have been fully considered but they are not persuasive. While the first and second attachment

means are described similarly as having the same basic configuration (Paragraph 012), nowhere in the specification is it stated that the two attachment means are identical. Further, the first attachment means is described in detail (Paragraphs 024-029) while the second attachment means is described as having multiple ways of utilization (Paragraph 038). Further, the original drawings do not show any rear views of the tractor so the drawings are not able to clarify how or where this quick attachment and additional implements would be mounted.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMIE L. MCGOWAN whose telephone number is (571)272-5064. The examiner can normally be reached on Monday through Friday 8:00 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on (571)272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas B Will/  
Supervisory Patent Examiner,  
Art Unit 3671

Jamie L. McGowan  
July 6, 2007

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